

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

XCOAL ENERGY & RESOURCES,)	
)	
Plaintiff)	
)	C.A. No. 18-819-LPS
v.)	
)	
BLUESTONE ENERGY SALES)	
CORPORATION, SOUTHERN)	
COAL CORPORATION, and)	
JAMES C. JUSTICE II,)	
)	
Defendants.		

**PLAINTIFF XCOAL ENERGY & RESOURCES’S REPLY IN SUPPORT OF MOTION
FOR AUTHORIZATION TO REGISTER JUDGMENT PURSUANT TO 28 U.S.C. § 1963**

Plaintiff Xcoal Energy & Resources (“Xcoal”), by and through its undersigned counsel, submits the within reply in support of its motion for authorization to register its judgment against Bluestone Energy Sales Corporation (“Bluestone”), Southern Coal Corporation (“SCC”), and James C. Justice, II (“Governor Justice”, and together with Bluestone and SCC, “Defendants”) in the Federal District Courts in the Eastern and Western Districts of Virginia and in the Northern and Southern Districts of West Virginia pursuant to 28 U.S.C. § 1963.

As set forth in Xcoal’s Motion (D.I. 185), after Defendants initially indicated in their Motion to Extend Stay of Execution of Judgment that they intended to provide an appeal bond by May 28, 2021 (D.I. 178, pp. 2-3), Defendants’ did not confirm that they would be providing such a bond in their subsequent Reply in Support of that Motion. (D.I. 181). In light of the doubt created by that filing, Xcoal requested via letter that Defendants confirm that they would be providing a bond by May 28, 2021. (*See* D.I. 185-3). After Defendants failed to respond to Xcoal’s request for confirmation, Xcoal filed the Motion for Authorization to Register Judgment (D.I. 185).

In response to Xcoal's Motion, Defendants now reassert their purported intention to file a bond today with the Court.¹ Other than indicating a potential amount and provider, Defendants have not disclosed the material terms of a bond to Xcoal or the Court. Consistent with its prior position on the matter, Xcoal would welcome the filing of a bond with appropriate terms which could be approved by the Court. Xcoal would also request an opportunity to review the terms of any proposed bond and respond as to the same.

However, until the Court approves an appeal bond and issues a stay, there is no basis to delay enforcement and execution. Accordingly, Xcoal reasserts its request that the Court authorize the registration of the April 14, 2021 Judgment (D.I. 167) in the United States Federal Courts for the Eastern and Western Districts of Virginia and the Northern and Southern Districts of West Virginia.

Dated: May 28, 2021

BUCHANAN INGERSOLL & ROONEY PC

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¹ Notably, Defendants do not contest that they have substantial property in the districts in which Xcoal seeks to transfer the Judgment and insufficient property in this district to satisfy the April 14, 2021 Judgment (D.I. 167). Accordingly, Xcoal has met the "good cause" requirement of 28 U.S.C. § 1963. (*See* D.I. 185, ¶¶ 14-17).

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